

Message Text

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ACTION EUR-12

INFO OCT-01 ISO-00 NEA-09 EA-06 AEC-05 AID-05 CEA-01

CIAE-00 CIEP-01 COME-00 DODE-00 EB-07 FEAE-00 FPC-01

H-01 INR-07 INT-05 L-02 NSAE-00 NSC-05 OMB-01 PM-03

RSC-01 SAM-01 OES-03 SP-02 SS-15 STR-01 TRSE-00

FRB-03 /098 W

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R 041752Z FEB 75

FM AMEMBASSY BONN

TO SECSTATE WASHDC 7726

INFO AMEMBASSY BRUSSELS

AMEMBASSY PARIS

AMEMBASSY LUXEMBOURG

AMEMBASSY ROME

AMEMBASSY COPENHAGEN

AMEMBASSY DUBLIN

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E.O# 11652: N/A

TAGS: EINV, EFIN, GW

SUBJECT: STATUS OF FRG DELIBERATIONS ON CONTROL
OF OIL PRODUCERS' INVESTMENTS

REF: BONN 1198

1. SUMMARY. THE FRG IS STILL CONSIDERING A NUMBER
OF ALTERNATIVE MEASURES DESIGNED TO
CONTROL THE INFLOW OF OIL PRODUCERS' INVESTMENTS.
THUS FAR NO DECISIONS HAVE BEEN MADE. END SUMMARY.

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2. THE DEBATE OVER THE BEST METHOD OF MONITORING AND CONTROLLING THE INFLOW OF INVESTMENTS FROM OIL PRODUCING COUNTRIES IS CONTINUING WITHIN THE PARLIAMENT, THE GOVERNMENT AND THE PRIVATE SECTOR. THE FDP ECONOMIC POLICY SPOKESMAN IN THE BUNDESTAG LAMBSDORFF STATED IN AN INTERVIEW LAST WEEK THAT HE FAVORED A LEGISLATED MEASURE WHICH WOULD PROVIDE FOR PRIOR GOVERNMENT APPROVAL OF ANY FOREIGN INVESTMENTS IN KEY INDUSTRIES AND FOREIGN INVESTMENT ABOVE A CERTAIN LEVEL IN OTHER INDUSTRIES. LAMBSDORFF THUS JOINED SOME SPD PARLIAMENTARIANS IN FAVORING AN APPROVAL REQUIREMENT AS OPPOSED TO A MERE NOTIFICATION REQUIREMENT OR A LESS RIGID VOLUNTARY ARRANGEMENT AS IS REPORTEDLY PREFERRED BY ECONOMICS MINISTER FRIDERICH.

3. THE FEDERAL GOVERNMENT REMAINS RELUCTANT TO CONTROL THE SALE OF SHARES OF GERMAN FIRMS TO FOREIGN INTERESTS BY LEGAL MEANS BECAUSE OF EXISTING CONSTITUTIONAL SAFEGUARDS WHICH PROVIDE SPECIFIC GUARANTEES REGARDING RIGHTS OF OWNERSHIP AND DISPOSAL OF PRIVATE PROPERTY.

3. WHILE THE ECONOMICS MINISTRY HAS PREPARED A DRAFT LAW RE INCOMING FOREIGN INVESTMENT (SEE PARA 4 BELOW) AND HAS DRAWN UP A LIST OF SOME 700 ENTERPRISES IN WHICH THE GOVERNMENT VIEWS FOREIGN INFLUENCE AS UNWANTED, NO SPECIFIC COURSES OF ACTION HAVE YET BEEN DECIDED. ECONMIN CONTACTS HAVE MENTIONED THAT MEASURES SIMILAR TO THOSE CONTAINED IN A BILL RECENTLY INTRODUCED IN THE US SENATE ARE RECEIVING CLOSE STUDY. THIS BILL THEY UNDERSTAND WOULD REQUIRE REPORTING TO THE SECURITIES AND EXCHANGE COMMISSION OF ALL APPROACHES MADE BY FOREIGN INVESTORS FOR THE PURPOSE OF PURCHASING SHARES IN US INDUSTRIES. AS WITH THE SENATE BILL, THE FRG CONTEMPLATES A SYSTEM WHEREBY REPORTS WOULD BE RECEIVED BY THE GOVERNMENT OF A POSSIBLE FOREIGN INVESTMENT, AFTER WHICH TIME THE GOVERNMENT WOULD HAVE 30 DAYS IN WHICH TO COMMENT AND/OR ANNOUNCE A POSSIBLE INVESTIGATION INTO THE SPECIFIC IMPLICATIONS LIMITED OFFICIAL USE

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OF THE INVESTMENT. DURING THE INVESTIGATION THE

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PROSPECTIVE TRANSACTION COULD NOT BE CONSUMMATED.
OUR CONTACT NOTED THAT SUCH AN APPROACH WOULD MAKE
FOREIGN INVESTMENT AS TRANSPARENT AS POSSIBLE WITHOUT
EMBROILING THE GOVERNMENT IN THE BUSINESS OF SCREENING
INVESTMENTS ON A CASE BY CASE BASIS.

4. THE ECONOMICS MINISTRY HAS PREPARED A DRAFT LAW,
BUT THERE REMAINS CONSIDERABLE DISCUSSION ABOUT BOTH
THE SPECIFIC PROVISIONS OF THE LAW AND THE DESIRABILITY
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OF INSTITUTING LEGISLATIVE CONTROLS. AS IT NOW STANDS THE DRAFT LAW PROVIDES FOR ADVANCE NOTIFICATION TO THE GOVERNMENT AND THE BUNDESBANK PRIOR TO THE SALE TO A FOREIGN INVESTOR OF SHARES EXCEEDING DM 100 MILLION OR EXCEEDING 10 PERCENT OF THE OWNERSHIP IN ANY ENTERPRISE WHOSE ANNUAL SALES SURPASS DM 100 MILLION. CONSIDERATION IS ALSO BEING GIVEN TO LEGISLATION WHICH WOULD GRANT THE GOVERNMENT AND THE BUNDESBANK PRIORITY IN THE PURCHASE OF CERTAIN INDUSTRIES THREATENED BY FOREIGN TAKEOVER AND WHICH WOULD ALSO FORBID THE SALES OF SHARES OF CERTAIN INDUSTRIES TO FOREIGN INTERESTS.

5. INDUSTRY REPRESENTATIVES APPEAR DIVIDED ON THE ISSUE OF LEGISLATIVE VERSUS VOLUNTARY RESTRICTIONS. REPRESENTATIVES OF THE BANKING INDUSTRIES HAVE EXPRESSED THEIR CONCERN THAT ANY GENERAL REVIEW PROCEDURES OVER INCOMING FOREIGN INVESTMENT COULD EVENTUALLY LEAD TO RESTRICTIONS REGARDING DOMESTIC INVESTMENTS AND PERHAPS TO OVERALL GOVERNMENT CONTROL OF MAJOR INVESTMENT DECISIONS. A NUMBER OF BUSINESSMEN HAVE COME OUT PUBLICLY IN FAVOR OF A MAXIMUM LIMIT ON THE VOICE WHICH FOREIGN OWNERS COULD EXERCISE IN CERTAIN INDUSTRIES IRRESPECTIVE OF THEIR OWNERSHIP SHARE.
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